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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

IN RE:)	CV No. 2:17-mc-26__
LETTERS ROGATORY FROM THE)	APPLICATION FOR ORDER
1 ST CIVIL SECTION OF THE)	APPOINTING THE ASSISTANT
JUDICIAL DISTRICT OF LISBON,)	UNITED STATES ATTORNEY AS
PORTUGAL)	COMMISSIONER
)	(28 U.S.C. § 1782)

The United States of America by the undersigned, Sandra R. Brown, Acting United States Attorney for the Central District of California, by Dorothy A. Schouten, Assistant United States Attorney, Chief, Civil Division, by Erika Johnson-Brooks, Assistant United States Attorney, petitions this Court for an Order pursuant to § 1782 of Title 28 of the United States Code, in the form submitted, appointing Erika Johnson-Brooks, Assistant United States Attorney, or

1 her successor in office, as Commissioner and directing the taking of evidence from
2 Stacey Callovi who, it has been determined, resides or can be found within the
3 jurisdiction of this Court, pursuant to the terms and conditions set forth in the
4 Letters Rogatory issued by the above-entitled court in Lisbon, Portugal, pertinent
5 to the case Powerwave Technologies, Inc. v. Net Plan Telecomunicacoes e
6 Energia, reference case number 194466/12.2YIPRT.

7 Attached as Exhibit 1 is a copy of the Letters Rogatory from the court in
8 Portugal. The court in Portugal is asking that evidence be obtained from Stacey
9 Callovi by means of a deposition.

10 The only restrictions explicitly stated in 28 U.S.C. § 1782 are: (1) that the
11 request be made by a foreign or international tribunal or any interested person; (2)
12 that the testimony or material requested be for use in a proceeding in a foreign or
13 international tribunal; and (3) that the person or entity from whom the discovery is
14 sought is a resident of or can be found in the district where the application is filed.
15 See In Re Request for Judicial Assistance from the Seoul District Criminal Court,
16 Seoul, Korea, 555 F.2d 720, 723 (9th Cir. 1977); United States v. Sealed 1, Letter
17 of Request for Legal Assistance from the Deputy Prosecutor General of the
18 Russian Federation, 235 F.3d 1200, 1205 (9th Cir. 2000) (citing Korea at 555 F.2d
19 at 723 that, “Under the statute the only restrictions explicitly stated are that the
20 request be made by a foreign or international tribunal, and that the testimony or
21 material requested be for use in a proceeding in such a tribunal”); In Re Bayer AG,
22 146 F.3d 188, 192 (3rd Cir. 1998).

23 All these three requirements are met in this case. First, the request was
24 made by the 1st Civil Section of the Judicial District in Lisbon, Portugal, which is a
25 foreign tribunal. Second, there is a proceeding in that court entitled, Powerwave
26 Technologies, Inc. v. Net Plan Telecomunicacoes e Energia, reference case
27 number 194466/12.2YIPRT, and the evidence being sought is for use in that
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1 proceeding by that court. Finally, it has been determined that Stacey Callovi
2 resides or can be found within the jurisdiction of this Court.

3 Therefore, the United States respectfully requests the Court to sign the
4 Order, being lodged under separate cover, appointing Erika Johnson-Brooks,
5 Assistant United States Attorney, or her successor in office, as Commissioner, and
6 directing the taking of testimony from Andres Villa, to enable the court in
7 Argentina to complete the proceedings before it.

8 DATED: This 14th day of March, 2017.
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16 */s/ Erika Johnson-Brooks*

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18 Assistant United States Attorney
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